

### ***Election/Restrictions***

Applicant's election of Group I in the reply filed on December 8, 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim 35 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on December 8, 2008.

### ***Drawings***

The drawing correction filed July 30, 2009 has been approved.

### ***Claim Rejections - 35 USC § 112***

Claims 22, 24, 25, 27-34, 36, 37, 39-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "wherein the deflection element is movably mounted on a socket with a slider" on line 4 of claim 22 render the claims indefinite because it is unclear what the applicant is attempting to set forth. It is unclear how the slider and the socket are engaged, if at all. Recitations such as "a number of different positions on the socket" on line 3 of claim 24 render the claims indefinite because it is unclear if the

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applicant is referring the positions set forth above or is attempting to set forth positions in addition to the positions set forth above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22, 24, 25, 28-34, 36, 37, 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klippert et al. (6131482). Klippert et al. discloses a deflection device for a motor vehicle window lifter comprising:

a deflection element 23 for guiding a traction device 5 of the window lifter,

a spring device 4 for tightening the traction device;

wherein the deflection element is movably mounted on a socket 1 with a slider 2;

wherein, in order to tighten the traction device, the deflection element 23 is configured to be positionable by the spring device 4 mounted on the socket 1 into a number of different positions on the socket;

wherein the socket is fixable together with the deflection element and the spring device as one preassembled structural module on the window lifter;

wherein a fixing device 14 is provided on the socket 1 in order to fix the slider 2 on the socket 1 so long as the preassembled structural unit is not yet mounted on the window lifter;

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wherein the fixing device 14 is automatically releasable under the action of the traction device when the window lifter is brought into operation (see col. 7, ln. 36-41);

and wherein the deflection element and the slider are connected together; and

wherein the socket 1 forms a housing;

wherein a guide 10 is provided on the socket 1 by which the deflection element 23 is guided so that the deflection element is positionable into a number of different positions on the socket in order to tighten the traction device (claim 24);

wherein the deflection element 23 is slidably mounted on the socket 1 (claim 25);

wherein the slider 2 is guided in the guide (claim 28);

wherein the spring device 4 comprises at least one pretensioned spring element engaging the slider 2, wherein the at least one spring element has the tendency to move the slider 2 so that the traction device 5 becomes taut (claim 29);

wherein the fixing device 14 is a positive locking device (claim 30);

wherein a locking device 3 is provided for locking the deflection element 23 in different positions on the socket 1 (claim 31);

wherein the locking device 3 is a positive locking device (claim 32);

wherein the positive locking device 3 comprises a toothed region provided on one of the socket and on an insert part fitted therein (claim 33);

wherein another toothed region 1a is provided on the slider (claim 34);

wherein the locking device 3 is locked during operation of the window lifter through the tension of the traction device 5 (claim 36);

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wherein the locking device 3 is releasable during relaxation of the traction device 5 so that the deflection element 23 is movable under the action of the spring device 4 in order to tighten the traction device 5 (claim 37);

wherein the fixing device 14 is a detent connection (claim 42);

wherein the positive locking device 3 comprises associated toothed regions (claim 43). Klippert et al. is silent concerning the slider and the deflection element being formed by separate parts.

However, it would have been obvious to one of ordinary skill in the art to form the slider and the deflection element as separate parts since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177,179.

Claims 22, 27 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobrehel (US 5657580) in view of Klippert et al. Kobrehel discloses a motor vehicle window lifter 10 comprising:

a drive 26;

a traction device 28;

a deflection element 61 for guiding the traction device 28 of the window lifter;

a spring device 80 for tightening the traction device;

wherein the deflection element 61 is movably mounted on a socket 21 with a slider 64;

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wherein, in order to tighten the traction device 28, the deflection element 61 is configured to be positionable by the spring device 80 mounted on the socket 21 into a number of different positions on the socket;

wherein the socket 21 is fixable together with the deflection element 61 and the spring device 80 as one preassembled structural module on the window lifter;

wherein the slider 64 and the deflection element 61 are formed by separate parts, and wherein the deflection element and the slider are connected together; and

wherein the socket 21 forms a housing;

wherein the deflection element 61 is fixed on the slider 64 by a stepped bolt 66 engaging the slider through an opening 65 in the slider (claim 27);

several guideways 76, 78 arranged side by side for at least one follower 74 connected to the traction device (claim 40);

wherein the guideways run parallel to each other (claim 41). Kobrehel is silent concerning a fixing element.

However, Klippert et al. discloses a cable tensioner comprising a fixing device 14 is provided on a socket 1 in order to fix a slider 2 on the socket 1 so long as the preassembled structural unit is not yet mounted on a window litter; and wherein the fixing device 14 is automatically releasable under the action of the traction device when the window lifter is brought into operation (see col. 7, ln. 36-41).

It would have been obvious to one of ordinary skill in the art to provide Kobrehel with a fixing device, as taught by Klippert et al., in order to ensure the spring has the highest compression possible before the initial operation of the window lifter.

### ***Response to Arguments***

Applicant's arguments filed July 30, 2009 have been fully considered. Some of the applicant's comments are moot in view of the new grounds of rejection while others are pertinent to the current rejection and have been addressed below.

The applicant argues that Kobrehel fails to disclose the socket being fixable together with the deflection element and the spring device as one preassembled structural module on the window lifter. The examiner respectfully disagrees. The claim language only requires the socket to be capable of being fixed on the window lifter. Clearly the socket 21 of Kobrehel is capable of being fixed to a support plate, i.e., the window lifter. It should be noted that the applicant's disclosed "window lifter" appears to be no more than support plate T as shown in figure 1A.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Gregory J. Strimbu/  
Primary Examiner, Art Unit 3634